

REMARKS

Claims 1-21 are pending in the application. Favorable reconsideration is requested in view of the following remarks.

I. Independent Claims 1 and 14

Independent claim 1 stands rejected pursuant to 35 U.S.C. § 103(a) as being obvious over Bird et al., European Patent Application No. 1 043 671 (Bird) in view of Nielson et al., U.S. Patent Application Publication No. 2006/0129643 (Nielson). Independent claim 14 stands rejected pursuant to 35 U.S.C. § 103(a) as being obvious over Bird and Nielson in view of other more tertiary references. A combination of Bird and Nielson, however, does not result in or disclose the claimed invention. In particular, the references, whether viewed individually or in combination, do not disclose or suggest that a sending end client that originates a message evaluates content-capability information of a receiving client.

Both Bird and Nielson conform to prior art messaging systems that are described in the current application. As described in the current application, prior art multimedia messaging services (MMS) used dedicated servers to adapt MMS content: "In MMS, content adaptation is performed at a server after the UAprof has been obtained from a repository or local cache." (See Application at page 4, lines 3-15.) Bird describes precisely this type of prior art system. A "message service agent" receives client capability information from subscriber devices. The client capability information is then passed to a "message broker" for storage. MMS messages are then received by the message broker, which compares the messages to the capability information and adapts the content as necessary. (See, e.g., Bird at paragraphs [0007], [0036-0044].)

As also described in the current application, in prior art messaging services sending clients, regardless of message content, have used presence information to determine the status or availability of a receiving client to receive messages. (Application at page 5, lines 10-19.) Nielson describes precisely this type of prior art system in which presence information may be employed, irrespective of content capability, to determine the availability of a receiving client. (See Nielson at paragraph [0031].)

The claimed invention improves MMS performance by incorporating content-capability evaluation directly into the operation of the sending end client that originates the message. In other words, the sending end client that originates an MMS message analyzes the content capabilities of a receiving end client that is to receive the MMS message. If appropriate, the sending end client may adapt the MMS message to the content capabilities of a receiving end client, or not send a message at all. Because the content analyzing and adaptation functions are integrated into the originating sending client, the waste of resources is reduced. In both the conventional prior art systems of Bird and Nielson, the sending end client that originates an MMS message plays no role in the content capability analysis. A combination of the references, therefore, lacks an entire claim feature and thus does not result in or disclose the claimed invention. Indeed, the utter lack of a claim feature in the Examiner's proposed combination demonstrates the lack of even a *prima facie* obviousness rejection.

In the rejection, the Examiner states that it would have been obvious "to provide end-to-end message communication between a sending end client and a target end client, as taught by Nielson et al., in the method of Bird et al., so that direct communication between the sending end client and the target client can occur." (See Office Action at page 6.) In this statement, however, the Examiner seems to misunderstand the nature of the distinctiveness of the claimed invention. As MMS systems, both Nielson and Bird in some sense disclose sending end clients that originate messages. The distinctiveness of the claimed invention, however, lies not in the direct nature of the communication, but rather in the incorporation of content capability analysis into the sending end client that originates the message. As shown above, the references, whether considered individually or in combination, do not disclose or suggest this claim feature.

For the foregoing reasons, independent claim 1 is not obvious over the combination of Bird and Nielson, and independent claim 14 is not obvious over such combination in view of the other tertiary references. Accordingly, the rejection of claims 1 and 14 should be withdrawn.

II. The Remaining Claims

Claims 2-13 and 15-21 all stand rejected pursuant to 35 U.S.C. § 103(a) as being obvious over the combination of Bird and Nielson, whether by itself or in view of other more tertiary references. These claims all depend from claims 1 or 14, and therefore are patentable for at least the same reasons. The tertiary references do not supply the above deficiencies of Bird and Nielson, and the Examiner does not indicate otherwise. Accordingly, the rejection of these claims should be withdrawn.

III. Conclusion

In view of the foregoing, claims 1-21 are believed to be allowable, and the application is believed to be in condition for allowance. Accordingly, request is made for timely issuance of a notice of allowance.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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December 31, 2008
Date